

REMARKS

Claims 1-20 are pending in the present application.

Election of Species Requirement

The Examiner has subjected claims 1-20 to an Election of Species Requirement.

In formulating this Election of Species Requirement, the Examiner identifies two allegedly distinct species: Species of Group I - pertaining to a method for minimizing the inter-document zone that includes receiving data, inspecting the data to determine lead and trailing edge blank borders and adjusting the imaging and paper delivery timings; and Species of Group II - pertaining to a method for minimizing the inter-document zone that includes determining lead edge and adjusting the imaging and paper delivery timings. The Examiner further asserts that these two species are independent and distinct.

The Examiner is respectfully reminded that the basis of Election of Species is not claim centric, but is disclosure centric. More specifically, **MPEP** §809.02(a) states that the Examiner should "clearly identify each (or in aggravated cases at least exemplary ones) of the **disclosed** species, *to which claims are >to be< restricted.*" [Emphasis added. Italics in original.]

Moreover, **MPEP** §809.02(a) states:

The species are preferably identified as the species of figures 1, 2, and 3 or the species of examples I, II, and III, respectively. In the absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each species identified.

Lastly, **MPEP** §809.02(a) states, "If the species *cannot be conveniently identified*, the claims may be grouped in accordance with the species to which they are restricted." [Italics in original.]

As set forth in the Office Action, dated January 10, 2008, the Examiner has clearly identified the alleged species by setting forth the distinguishing characteristic of each alleged species.

For example, the Examiner has identified the first species (Group I) by the distinguishing characteristic of pertaining to a method for minimizing the inter-document zone that includes receiving data, inspecting the data to determine lead and trailing

edge blank borders and adjusting the imaging and paper delivery timings. Moreover, the Examiner has identified the second species (Group II) by the distinguishing characteristic of pertaining to a method for minimizing the inter-document zone that includes determining lead edge and adjusting the imaging and paper delivery timings.

However, the mere identification of the alleged species does not meet the requirements to establish a proper Election of Species Requirement. Not only must the Examiner clearly identify the alleged species, the Examiner must also demonstrate that the alleged species are independent or distinct. (MPEP §808.02) More specifically, MPEP §808.02 sets forth that criteria of MPEP §806.05(c) - §806.06 must be met.

In the Office Action, dated January 10, 2008, the Examiner has failed to demonstrate how the alleged species are patentably independent or distinct using the criteria of MPEP §806.05(c) - §806.06.

Furthermore, MPEP §808.02 sets forth, "Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP §806.05(c) - §806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required." MPEP §808.02 sets forth that the Examiner must show that the claimed inventions would have a separate classification; that the claimed invention have separate status in the art; or that the claimed invention have separate different fields of search.

In the Office Action, dated January 10, 2008, the Examiner has failed to establish reasons for insisting upon restriction.

Therefore, for all the foregoing reasons, the Examiner has failed to demonstrate a proper basis for an Election of Species Requirement with respect to the two alleged species: Species of Group I - pertaining to a method for minimizing the inter-document zone that includes receiving data, inspecting the data to determine lead and trailing edge blank borders and adjusting the imaging and paper delivery timings; and Species of Group II - pertaining to a method for minimizing the inter-document zone that includes determining lead edge and adjusting the imaging and paper delivery timings.

In the alternative, should the Examiner be able to characterize the species as a combination of a distinguishing characteristic and claim group, the Examiner's species identification methodology is flawed.

For example, the Examiner asserts that claims 1-4 read upon Species I. The Examiner also states that claims 5-20 read upon Species II, yet the Examiner also asserts that claims 9-13 read upon Species I. Thus, the Examiner's grouping of claims is inconsistent with the distinguishing characteristic of the associated species.

In summary, when one analyzes the Examiner's Election of Species Requirement in a claim centric manner, the Examiner has failed to demonstrate a proper basis for an Election of Species Requirement with respect to the two alleged species.

Accordingly, in view of all the reasons set forth above, the Examiner is respectfully requested to reconsider and withdraw this Election of Species Requirement.

However, to expedite the prosecution of the present application, the Applicant elects, **with traverse**, Species I.

As required by MPEP §809.02(a) and as set forth by the Examiner in Office Action, dated January 10, 2008, "Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added."

In addition to the Applicant's identification of the species that is elected, **with traverse**, consonant with the Election of Species Requirement, the Applicant must include a listing of all claims readable thereon.

Since the Applicant elects, **with traverse**, Species I, a species pertaining to a method for minimizing the inter-document zone that includes receiving data, inspecting the data to determine lead and trailing edge blank borders and adjusting the imaging and paper delivery timings, it is respectfully submitted that claims 1-20 read upon Species I, a species pertaining to a method for minimizing the inter-document zone that includes receiving data, inspecting the data to determine lead and trailing edge blank borders and adjusting the imaging and paper delivery timings.

CONCLUSION

Accordingly, in view of all the reasons set forth above, the Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement. Also, an early indication of allowability is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Nickerson', with a stylized, flowing script.

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